

Cory R. Laird, Esq.
REEP, BELL & LAIRD, P.C.
2955 Stockyard Road
P.O. Box 16960
Missoula, Montana 59808-6960
Telephone: (406) 541-4100
Facsimile: (406) 541-4101
Email: laird@rbl-mt.com

Attorneys for Defendant

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA

DIVISION

COMES NOW Defendant LineHaul Logistics, Inc. (hereafter "Defendant"), by and through counsel, and pursuant to 28 U.S.C. §§ 1331, 1441(b), and 1446, hereby removes the above action from the Fourth Judicial District Court, Missoula County, State of Montana, based on the following grounds:

1. On or about July 26, 2011, Plaintiff Arlene Joseph ("Plaintiff")

1 filed an Amended Complaint against Defendant in the Fourth Judicial District
2 Court, Missoula County, State of Montana, Civil Action No. DV-11-578
3 ("Amended Complaint"). See Ex. B. The Amended Complaint includes
4 claims for wrongful discharge (lack of good cause and retaliation), state and
5 federal violations of wage and hour laws, and failure to provide health
6 insurance benefits pursuant to the Employee Retirement Income Security
7 Act ("ERISA").

8 2. Plaintiff filed but did not serve Defendant with the Complaint on
9 May 2, 2011. See Ex. A. At some point thereafter, Plaintiff forwarded
10 Defendant's attorney the Amended Complaint. Plaintiff's attorney
11 acknowledged service on August 5, 2011. See Ex. C.

12 3. Plaintiff's Amended Complaint includes two (2) federal claims—
13 a wage and hour claim under the Fair Labor Standards Act ("FLSA") and a
14 claim for failing to provide insurance benefits under ERISA. Both of these
15 claims involve federal questions for which this Court has original jurisdiction.
16 28 U.S.C. § 1331.

17 4. As a matter of law, Defendant may remove this action to this
18 Court pursuant to 28 U.S.C. § 1331; See also 28 U.S.C. § 1441(b).

19 5. This notice is timely in that it has been filed within thirty (30) days
20 of the date in which Defendant first received a copy of Plaintiff's Amended
21

1 Complaint. Pursuant to 28 U.S.C. § 1446(a), the following documents
2 constitute all of the pleadings, motions, and other papers which have been
3 filed in the state court action, and copies are attached hereto as follows:

4

- 5 a. Complaint (Exhibit A);
- 6 b. Amended Complaint (Exhibit B);
- 7 c. Summons/Notice of Acknowledgment of Receipt of
8 Summons and Amended Complaint (Exhibit C); and
- 9 d. Answer (Exhibit D).

10 6. Defendant states that no motions are currently pending, and no
11 hearings have been set in the state court as of this date.

12 7. Pursuant to 28 U.S.C. 1446(d) and L.R. 3.2, copies of this Notice
13 of Removal have been filed with the Fourth Judicial District Court, Missoula
14 County, State of Montana, and provided to Plaintiff's counsel.

15 8. Defendant is entitled to remove the above action from the state
16 District Court to the United States District Court pursuant to 28 U.S.C. §§
17 1331, 1441(b).

18 20 DATED this 25th day of August, 2011.

21 22 REEP, BELL & LAIRD, P.C.

23 24 /s/ Cory R. Laird
Cory R. Laird
Attorneys for Defendant

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CERTIFICATE OF SERVICE

2 I hereby certify that, on 8/25/11, a copy of the foregoing document
3 was served on the following persons by the following means:
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5 1 CM/ECF
6 2 Hand Delivery
7 3 Mail
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9 _____
10 Overnight Delivery Service
11 _____
12 _____
13 Fax
14 _____
15 E-Mail

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1. Clerk, U.S. District Court
2. Clerk, District Court
3. Stacey Weldele-Wade
ANTONIOLI AND WADE, P.C.
P.O. Box 6018
Missoula, Montana 59806-6018

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/s/ Cory R. Laird
Cory R. Laird
Attorneys for Defendant